
AUDIT AMENDMENT ACT

TABLE OF PROVISIONS

1. Short title.
2. Principal Act and general regulations.
3. Amendment of section 4 of Principal Act (Appointment of Auditor-General).
4. Insertion in Principal Act of new section 5.
 - 5—Terms and conditions of appointment of Auditor-General.
5. Amendment of section 9 of Principal Act (Appointment of Deputy Auditor-General).
6. Amendments of the general regulations.
 - Schedule 1—Amendments of the general regulations.





AUDIT AMENDMENT

—————
 No. 80 of 1979
 —————

 AN ACT to amend the Audit Act 1918 with respect to the terms and conditions of service of the Auditor-General and Deputy Auditor-General and for the purpose of modernizing certain of the provisions of the general regulations contained in Schedule II to that Act.

[Royal Assent 14 December 1979]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Audit Amendment Act 1979*. Short title.

2—(1) In this Act, the *Audit Act 1918** is referred to as the Principal Act. Principal Act and general regulations.

(2) In this Act, “general regulations” means the general regulations set forth in Schedule II to the Principal Act.

*9 Geo. V No. 3. For this Act, as amended to 1st January 1978, see the continuing Reprint of Statutes, Vol. I.

Amendment of section 4 of Principal Act (Appointment of Auditor-General).

3—Section 4 of the Principal Act is amended by omitting subsection (2).

Insertion in Principal Act of new section 5.

4—After section 4 of the Principal Act, the following section is inserted:—

Terms and conditions of appointment of Auditor-General.

5—(1) Subject to this section and to any Act under or by reference to which his salary and allowances are determined, the terms and conditions of service of the Auditor-General shall be such as the Governor from time to time determines.

(2) Where a determination is made under subsection (1) that provides for terms and conditions of service that differ from the terms and conditions of service of an officer of the Public Service within the meaning of the *Public Service Act* 1973 who is entitled to be paid a salary at the same rate as the rate of salary payable to the Auditor-General, the Treasurer shall cause a copy of the determination to be tabled in each House of Parliament within 14 sitting-days of the House after the making of the determination.

(3) Except in so far as a determination made under subsection (1) otherwise provides, the Auditor-General is entitled to leave of absence, whether recreation leave or leave of any other kind, as that to which he would have been entitled under the *Public Service Act* 1973 if he were an officer of the Public Service within the meaning of that Act, but only in the circumstances and subject to the conditions that are applicable in respect of such an officer.

(4) A person appointed to be Auditor-General on or after 1st July 1979 shall, for the purposes of the *Superannuation Act* 1938, the *Retirement Benefits Act* 1970, and the *State Employees (Long-Service Leave) Act* 1950, be regarded as being employed in a permanent capacity by the State in a department of the services of the State.

(5) An officer of the Public Service appointed to be Auditor-General after the commencement of section 2 of the *Audit Act* 1957 is entitled to retain all his existing and accruing rights as if his service as Auditor-General were a continuation of his service as an officer of the Public Service.

(6) Where a person ceases to hold office as Auditor-General and becomes an officer of the Public Service, his service as Auditor-General shall be regarded as service in the Public Service for the purpose of determining his rights as an officer of the Public Service.

5—Section 9 of the Principal Act is amended as follows:—

Amendment of section 9 of Principal Act (Appointment of Deputy Auditor-General).

(a) by omitting from subsection (2) “one month” and substituting “10 working days”;

(b) by omitting from subsection (2) “a total remuneration by way of salary at the rate of salary prescribed in section 5 as the salary” and substituting “a salary at the same rate as that”;

(c) by omitting from subsection (3) “remuneration” and substituting “salary”;

(d) by inserting the following subsection after subsection (3):—

(4) In subsection (2), “working days” has the meaning assigned to that expression in section 40 (6) of the *Public Service Act* 1973.

6—The general regulations are amended in the manner specified in Schedule 1.

Amendments of the general regulations.

SCHEDULE 1

Section 6

AMENDMENTS OF THE GENERAL REGULATIONS

1. Regulation 23 is amended by omitting the passage commencing with “necessary;” and substituting “necessary.”.

2.—Regulations 28, 29, 30, and 31 are repealed and the following regulations are substituted:—

28—(1) Except where otherwise provided by or under this regulation, the salaries and allowances of the officers of the several Departments of the Public Service are payable fortnightly on the Wednesday of each alternate week (in this regulation referred to as “a pay-day”) in respect of the fortnight ending on that day.

(2) Subject to paragraph (4), where a pay-day falls on a day that is a Public Service holiday—

(a) throughout the State, payment under paragraph (1) shall be made to the officers of the several Departments of the Public Service; or

(b) in a particular locality of the State, payment under paragraph (1) shall be made to the officers of those Departments of the Public Service who are employed in that locality,

on the nearest preceding day that is not a Public Service holiday or a Sunday.

(3) For the purposes of paragraph (2), “Public Service holiday” means—

(a) a bank holiday under the *Bank Holidays Act 1919*; or

(b) a holiday appointed pursuant to section 91 (3) of the *Public Service Act 1973*.

(4) Where a pay-day falls on—

(a) a day during the period commencing on Christmas Day and ending on 2nd January next following; or

(b) a day considered by the Treasurer to be inappropriate for arranging payment of salaries and allowances,

payment may be made on such other day within the fortnightly period as the Treasurer directs.

(5) Except in the case of an officer to whom paragraph (6) applies—

(a) an officer’s fortnightly pay is $\frac{1}{26}$ th of his annual rate of pay, subject to all deductions that may properly be made; and

(b) an officer’s daily rate of pay is $\frac{1}{10}$ th of his fortnightly pay calculated in accordance with subparagraph (a).

(6) Subject to all deductions that may properly be made, where an officer is rostered for duty on regular afternoon or night shifts or regular shifts that extend over week-ends and holidays—

(a) the officer’s daily rate of pay is $\frac{1}{260}$ th of his normal salary rate multiplied by such appropriate penalty rate as applies in respect of each day on which he works as is prescribed by a relevant principal award; and

(b) the officer’s fortnightly pay shall be determined by adding together the daily rates payable in respect of each day within the relevant fortnight.

(7) For the purposes of paragraph (6)—

“holidays” means days that are prescribed as holidays for the purposes of the payment of penalty rates under a relevant principal award;

“relevant principal award” means a principal award relating to conditions of service made by the Public Service Board under Part V of the *Public Service Act 1973*.

(8) An amount calculated under or for the purposes of paragraph (5) or (6) shall be calculated to the nearest cent.

(9) All deductions for contributions payable by officers to the Retirement Benefits Fund and the Superannuation Fund respectively shall be made in such amounts as are provided for under the respective Acts establishing those funds and in such manner as is respectively prescribed by the regulations under those Acts.

(10) The Head of a Department shall cause to be prepared and furnished to the Treasurer a certified claim for salaries and allowances payable for each fortnightly period to the officers of the Department.

(11) A certified claim for the purposes of paragraph (10) shall be in such form, and shall be furnished by such day in the fortnightly period to which it relates, as the Treasurer directs.

(12) Except in a case to which paragraph (15) applies and subject to all deductions that may properly be made, the Treasurer shall pay to the Head of a Department who has caused him to be furnished with a certified claim under paragraph (10) the amount that is necessary to pay the salaries and allowances of the officers of the Department.

(13) The Auditor-General shall be provided with acquittances for the payment of salaries, allowances, and authorized deductions in such form and at such times as the Treasurer, with the concurrence of the Auditor-General, approves.

(14) The Treasurer may from time to time make such requirements in respect of the payment of salaries and allowances as he considers desirable.

(15) The Treasurer may withhold the further payment of salaries or allowances to the officers of a Department where, in the opinion of the Treasurer and the Auditor-General, the Head of the Department or any other person has not satisfactorily complied with the requirements of this regulation.

(16) In this regulation, “allowances” means allowances in the nature of salary.

29—(1) The Treasurer may, on the application of the Head of a Department, issue an advance to him to enable him to defray salaries, allowances, wages, and other departmental expenditure that the Treasurer considers it desirable should be defrayed by such an advance.

(2) The amount of an advance under paragraph (1) shall be determined by the Treasurer.

30—(1) An advance under regulation 29 (1) (in this regulation referred to as “an advance”) shall be in the form of a floating advance or special advance for defraying the expenditure specified in the application for the advance.

(2) Where the expenditure authorized by an advance is expenditure that recurs throughout the year, the advance shall be issued in the form of a floating advance, subject to the following conditions:—

(a) the Head of the Department to whom the advance is issued shall, in order to maintain the Department’s advance account in funds during a financial year, apply to the Treasurer as often as he directs for reimbursement of sums paid by the Head of the Department from the advance;

(b) an application for reimbursement under subparagraph (a) shall be supported by acquitted vouchers for each item of expenditure unless the Treasurer, with the concurrence of the Auditor-General, otherwise directs;

(c) the floating advance shall be used only for the purpose for which it was obtained.

(3) Where an advance is issued in the form of a special advance—

(a) the application for the advance shall specify the purpose for which it is required; and

(b) no person shall use the advance for any other purpose.

(4) No payment shall be made from an advance, unless it is authorized—

(a) by a supply or appropriation granted by Parliament;

(b) under regulation 20; or

(c) under the relevant provisions of the *Public Account Act* 1957.

(5) The Head of a Department to whom an advance is issued shall, at such times and in such form as the Treasurer directs, furnish the Treasurer with returns in respect of the advance.

(6) The Head of a Department to whom a floating advance is issued—

(a) shall, if he has not been granted an extension under paragraph (7)—

(i) repay to the Treasurer any unexpended balance of the advance on or before 25th June in the financial year in which the advance is issued; and

- (ii) at the same time, transmit to the Treasurer complete and satisfactory vouchers for expenditure not at that date reimbursed as provided by paragraph (2) (a); or

(b) shall, if he has been granted such an extension—

- (i) repay to the Treasurer any unexpended balance of the advance on or before 25th June in the financial year in which repayment of that balance is required to be made under the extension; and
- (ii) at the same time, comply with the provisions of subparagraph (a) (ii).

(7) The Treasurer may, with the concurrence of the Auditor-General, before 25th June in a financial year, grant to the Head of a Department who has been issued a floating advance an extension of time in which to repay the advance to him.

(8) The Treasurer may at any time require the Head of a Department to whom a floating advance has been issued to repay the whole or part of the advance forthwith to the Treasurer.

(9) Subject to paragraph (10), the person for whose benefit a special advance is issued shall repay the advance to the Treasurer on or before such day—

(a) as is specified by the Treasurer; or

(b) as the Treasurer, with the concurrence of the Auditor-General, approves if it is shown to the satisfaction of the Treasurer that special circumstances exist that preclude repayment of the advance by the day specified under subparagraph (a).

(10) The Treasurer may, having regard to the purpose for which a special advance has been issued and the changes in circumstances that have occurred since the issue of the advance, request the person for whose benefit it was issued or his legal personal representative to repay the advance forthwith to the Treasurer.

(11) Where a person for whose benefit a special advance has been issued or his legal personal representative does not repay the advance in accordance with paragraph (9) or as requested under paragraph (10), the Treasurer—

(a) may, having regard to the purpose for which it was issued, calculate what amount should have been paid by that person from the advance; and

(b) may, with the concurrence of the Auditor-General, prepare a voucher showing the amount so calculated which shall be used for the purposes of paragraph (15).

(12) The Treasurer may, by writing under his hand, appoint a competent person (in this regulation referred to as "an authorized person") to act on his behalf for the purposes of paragraph (11).

(13) An authorized person may, for the purposes of paragraph (11)—

(a) by writing under his hand, require a person for whose benefit a special advance has been issued or his legal personal representative to appear before him and submit for his examination such accounts, books, vouchers, documents, and papers as appear to the authorized person to be necessary for the purposes of his examination and to answer a lawful question when he is required to do so by the authorized person; and

(b) administer an oath to that person or his legal personal representative and examine him on oath.

(14) A person—

(a) who, having been required by an authorized person to appear before him pursuant to paragraph (13), fails without reasonable excuse so to appear;

(b) who, having been required by an authorized person to submit for his examination any accounts, books, vouchers, documents, or papers, fails without reasonable excuse to comply with the requirement;

(c) who refuses to be sworn or to affirm when so required by an authorized officer; or

(d) who refuses to answer a lawful question when required to do so by an authorized person,

is guilty of an offence and is liable to a penalty not exceeding \$200.

(15) A special advance in respect of which the Treasurer has prepared a voucher under paragraph (11) (b) shall be repaid in accordance with whichever of the following provisions is applicable:—

(a) where the amount shown in the voucher exceeds the amount of the advance, that excess shall, as the Treasurer directs, be paid into the Consolidated Revenue or to the person on whose behalf the advance was issued or to his legal personal representative; or

(b) where the amount so shown is less than the amount of the advance, the Treasurer may recover that deficiency by taking all or any of the measures of recovery specified in section 23 as if the deficiency were an amount surcharged under section 22.

3.—Regulation 41 is repealed and the following regulation is substituted:—

41—(1) An account forwarded to the Treasury that is certified and completed in accordance with the prescribed procedures shall be forthwith paid to the claimant or his authorized agent in such manner as the Treasurer directs.

(2) In paragraph (1), “ the prescribed procedures ” means the procedures prescribed by these regulations or other procedures in addition to or in substitution for them that are determined from time to time by the Treasurer.

(3) The provisions of section 22 apply if, after an account paid as provided by paragraph (1) is submitted for audit, it is found that—

- (a) a material error has been committed in relation to the account;
- (b) the authority for the payment is insufficient; or
- (c) the voucher substantiating the payment is defective.

4.—After regulation 43, the following regulation is inserted:—

43A—(1) The Treasurer shall keep accounts for the funds comprising the Public Account of the State within the meaning of section 5 of the *Public Account Act 1957*.

(2) The following accounts shall form the basis of the system of accounts kept for the purposes of paragraph (1):—

- (a) the printed estimates of receipts submitted to Parliament in each year;
- (b) the estimates of expenditure passed by Parliament in each year;
- (c) such other accounts as are kept in accordance with section 9 of the *Public Account Act 1957*.

(3) The Head of a Department shall, on the same basis as the accounts kept by the Treasurer for the purposes of paragraph (1), cause to be kept such accounts as are necessary to record particulars of receipts and expenditure made on behalf of the Department.

(4) The Head of a Department shall—

- (a) at such times and in such manner as the Treasurer directs—
 - (i) cause accounts kept for the purposes of paragraph (3) to be reconciled with accounts kept by the Treasurer for the purposes of paragraph (1); and
 - (ii) furnish the Treasurer with returns of such reconciliations and other information relating to the Department’s accounts as the Treasurer requires; and
- (b) cause errors that become apparent in the course of a reconciliation referred to in subparagraph (a) (i) to be adjusted in the accounts for the financial year in which they occur.

5.—After regulation 46, the following regulation is inserted:—

46A—(1) A person shall not destroy or otherwise dispose of any accounting or other records kept for the purposes of these regulations unless he has first obtained the written approval of the Auditor-General.

Penalty: \$200.

(2) The provisions of this regulation are in addition to, and not in derogation from, the provisions of the *Archives Act 1965*.